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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,331	08/26/2003	Michel Chevanne	Q76957	2115

23373 7590 06/27/2007  
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WASHINGTON, DC 20037

EXAMINER
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SIDDIQI, MOHAMMAD A

ART UNIT	PAPER NUMBER
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2154

MAIL DATE	DELIVERY MODE
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06/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/647,331	CHEVANNE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mohammad A. Siddiqi	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 January 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01/14/2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/26/2003</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

1. Claims 1-21 are presented for examination.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 08/26/2003 is being considered by the examiner.

### ***Claim Objections***

3. Claim 5 is objected to because of the following informalities: Claim recites "either" without being multi dependent claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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5. Independent claim 1 and their dependent claims are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claims raises a question as to whether the claims are directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful and tangible result. The unit of the plant receiving data and delivers the third data is a software construct (software per se) performing various functionalities. These functionalities do not manipulate any hardware or tangible entity. Therefore, the software construct is a non statutory entity as detailed in MPEP 2106.

6. Claims 16-21 are rejected under 35 U.S.C.101 because the claimed invention is directed to non-statutory subject matter. The statutory class of the claims are not clearly defined as they claim "Use of the method" (claim 16), and "Use of management system" (claim 18). The claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example Ex parte Dunki, 153 USPQ 678 (Bd.App. 1967) and Clinical Products, Ltd. v. Brenner, 255 F. Supp. 131,149 USPQ 475 (D.D.C. 1966).

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 16-21 are provides for the use of method and management system, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

10. Claims 1-8, 11-16, 18, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Mokuya et al. (US 2003/0046381) (hereinafter Mokuya).

11. As per claims 1 and 12, Mokuya discloses a system (1) and a method for managing management data of plant (5) of a communications network (fig 1), each unit of the plant (10a, fig 1) including a management information base (6) containing values of fields and associated with a management information base (MIB, page 3, paragraph #0037) definition (7) including fields and accessible in a network management system (NMS) (page 3, paragraph #0037), which system is characterized in that it includes at least one automatic descriptor (8) (data structure describing MIB in ASN1 format, page 4, paragraphs #0041-\$0042) that: i) includes first data designating at least one type of network plant (5) (page 4, paragraphs #0049-#0052, please see Summary of Invention Discussion) and second data designating management information base definitions (7) associated with said type of plant (5) (page 4, paragraphs #0049-#0052), and ii) is adapted, in the event of receiving data designating said type of plant (5), to access the fields of said management information base definitions (7) associated with the designated type and then to deliver third data (MIB tree, fig 7) representative of the fields of the plant (5) of the designated type (S1-

S3 , fig 2, and fig 7, page 4, paragraphs #0049-#0052, please see Summary of Invention Discussion).

12. As per claim 2, Mokuya discloses a system and method includes a set of non-automatic descriptors in addition to said automatic descriptor (8) (page 4, paragraphs #0041-#0042, structure supplied by device manufacturer).

13. As per claims 3 and 13, Mokuya discloses a system and method in that said automatic descriptor (8) is adapted, in the event of receiving data designating an address of a plant unit of said designated type, to access the fields of the management information definition (7) associated with said designated unit of the plant (5), then to command extraction from the management information base (7) of the designated plant (5) of the values of at least some of said fields contained in said definition (7), and then to deliver third data representative of said extracted values (control-table list composed of an item name description, page 4, paragraphs #0049-#0055).

14. As per claims 4 and 14, Mokuya discloses a system and method in that if said management information bases (6) of said plant (5) take the form of a tree associated with at least one table, said automatic descriptor (8) is

adapted to deliver third data in the form of a tree (fig 7) and at least one table including said extracted field values (control-table list composed of an item name description, fig 7, page 4, paragraphs #0049-#0055).

15. As per claim 5, Mokuya discloses automatic descriptor (8) is adapted to extract said field values from said management information bases (6) of the plant (5) of the network (S1-S3, fig 2, page 4, paragraphs #0049-#0055).

16. As per claim 6, Mokuya discloses automatic descriptor (8) includes fourth data designating a graphical representation such that said third data can be displayed in a chosen format (fig 7, page 6, paragraph #0079).

17. As per claim 7, Mokuya discloses automatic descriptor (8) consists of at least one set of program code files and at least one set of configuration files (Abstract Syntax Notation one (ASN1) is a standard and flexible notation that describes data structures for representing, encoding, transmitting, and decoding data. It provides a set of formal rules for describing the structure of objects that are independent of machine-specific encoding techniques and is a precise, formal notation that removes ambiguities, page 4, paragraphs #0041-#0047; please see Summary of

Invention Discussion).

18. As per claim 8, Mokuya discloses a system in that one of said program code files includes said first data designating said type of plant (5) and another of said program code files includes said second data designating said management information base definitions (7) associated with the plant (5) of said type (ASN1, page 4, paragraphs #0049-#0055; please see Summary of Invention Discussion).

19. As per claim 11, Mokuya discloses a management server (2) (20, fig 1) of a communications network including plant wherein each unit of the plant includes a management information base (MIB) that contains values of fields and is associated with a management information base definition (21, fig 1) including fields, which server is characterized in that it includes a management system (20, fig 1, page 4, paragraph #0041).

20. As per claim 15, Mokuya discloses automatic descriptor (8) includes fourth data designating a graphical representation (fig 7), said third data is displayed in a chosen format corresponding to said graphical representation (fig 7, page 6, paragraphs #0070-#0076).

21. As per claims 16, 18, and 20, Mokuya discloses in network technologies that have to be managed (20 fig 1, page 3, paragraph #0039).

***Claim Rejections - 35 USC § 103***

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claims 9, 10, 17, 19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mokuya et al. (US 2003/0046381) (hereinafter Mokuya) in view of Froyd et. al. (6,725,233).

24. As per claim 9, Mokuya discloses a system using ASN1 (ASN1, page 4, paragraph #0042, tools for ASN.1 are available on almost all operating systems. They generate code for popular programming languages such as Java). Mokuya did not expressly teach program codes are in Java. However, Froyd discloses program codes are in Java (col 1, lines 34-43, col 7, lines 30-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teaching of Froyd to developing the

system of Mokuya using JMX, java based model for implementing network management services independent of a management protocol.

25. As per claim 10, Mokuya did not expressly teach field values are extracted in accordance with a protocol chosen from the group comprising the SNMP, CORBA, CMISE/CMIP, and TL1 protocols. However, Froyd discloses field values are extracted in accordance with a protocol chosen from the group comprising the SNMP, CORBA, CMISE/CMIP, and TL1 protocols (col 1, lines 17-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teaching of Froyd to developing the system of Mokuya using JMX, java based model for implementing network management services independent of a management protocol.

26. As per claims 17, 18, and 21, Mokuya did not expressly teach network technologies are selected from the group comprising transmission networks, in particular WDM, SONET, and SDH networks, data networks, in particular Internet Protocol (IP) and ATM networks, and voice networks, in particular conventional, mobile, and NGN networks. However, Froyd discloses teach network technologies are selected from the group comprising transmission networks, in particular WDM, SONET, and SDH networks, data networks, in

particular Internet Protocol (IP) and ATM networks, and voice networks, in particular conventional, mobile, and NGN networks (col 1, lines 10-33, SNMP is the Internet's standard for remote monitoring and management of hosts, routers, and other nodes and devices on a network). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teaching of Froyd to developing the system of Mokuya using JMX, java based model for implementing network management services independent of a management protocol.

### ***Conclusion***

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 7,155,496

U.S. Patent 6,681,232

U.S. Patent 7,046,778

All the above references in this section teach Configuring, managing and monitoring network system utilizing generalized markup language.

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28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad A. Siddiqi whose telephone number is (571) 272-3976. The examiner can normally be reached on Monday -Thursday.

*NATHAN J. FLYNN*  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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